

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Crl. Misc. No. M-35388 of 2014 (O&M)
Date of decision : 12.01.2015

Kuldeep SinghPetitioner

versus

State of Punjab ...Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Sarika Gupta, Advocate, for the petitioner

Mr. Daljeet Singh Virk, AAG, Punjab

RITU BAHRI, J. (Oral)

Prayer in this petition is for grant of regular bail to the petitioner, in a case arising out of FIR No.56, dated 18.07.2014, registered at Police Station Fatehgarh Churrian, Distt. Gurdaspur, who has been booked for having committed the offence punishable under Sections 21/22/29 of NDPS Act.

The petitioner is neither arrested at the spot nor main accused has named the petitioner, who was arrested at public place. The petitioner is running a chemist shop and he was arrested on the disclosure statement of Chaman Lal.

On notice, a reply has been filed by DSP, Sub Divn. Fatehgarh Churrian, District Gurdaspur giving the details of below said case registered against the petitioner:-

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| 1. | F.I.R No. 34/02 u/s 188 IPC | Acquitted |
| 2. | F.I.R No. 36/05 u/s 188 IPC | Under trial |
| 3. | F.I.R No. 93/06 u/s 22/61/85 of NDPS Act | Cancellation report submitted |

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| 4. | F.I.R No. 09/08 u/s 22/61/85
of NDPS Act | Acquitted |
| 5. | F.I.R No. 92/12 u/s 22/61/85
of NDPS Act | Cancellation report submitted |
| 6. | F.I.R No. 56/14 u/s 22/61/85
of NDPS Act | Pending investigation |

As per reply, the chemical report is still awaited in the present case.

At this stage, reference can be made to an order passed by a Co-ordinate Bench of this Court in Crl. Misc. No. M-28367 of 2014 (Ravinder @ Binder vs. State of Haryana), wherein after examining provisions of Section 173 Cr.P.C, it has been held that a challan can be filed on completion of investigation and not prior too that. Hence in the absence of the FSL report, narco-analysis or any other document, the Court cannot proceed further and the challan would be incomplete. The question of framing charge would only arise when the complete investigation report is with the trial Court. In the above said case, charges had been framed against the accused without obtaining the Chemical Examiner's report. It was held that the trial Court cannot take cognizance of the offence and in the absence of the Chemical analysis report, the charge sheet/challan cannot be said to be complete. The accused was granted interim bail.

In the present case, FSL report has not been received yet. The petitioner is directed to be released on interim bail till the FSL report is presented in the trial Court on his furnishing

bail/surety bonds to the satisfaction of the trial Court and thereafter, he shall surrender and move application for grant of regular bail.

12.01.2015
G Arora

(RITU BAHRI)
JUDGE